



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2014-0700; FRL-9923-77-Region-6]

## Approval and Promulgation of Implementation Plans; Arkansas; Revisions for the Regulation and Permitting of Fine Particulate Matter

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving portions of three revisions to the Arkansas State Implementation Plan (SIP) submitted by the Arkansas Department of Environmental Quality on July 26, 2010; November 6, 2012; and December 1, 2014. Together, these three submittals update the Arkansas SIP such that the ADEQ has the authority to implement the current National Ambient Air Quality Standards (NAAQS) and regulate and permit emissions of fine particulate matter (particulate matter with diameters less than or equal to 2.5 micrometers (PM<sub>2.5</sub>)), and its precursors, through the Arkansas Prevention of Significant Deterioration (PSD) program. The EPA has determined that the Arkansas PSD program meets all Clean Air Act (CAA or the Act) requirements for PM<sub>2.5</sub> PSD and, as a result, our final action will stop the two Federal Implementation Plan (FIP) clocks that are currently running on the Arkansas PSD program pertaining to PM<sub>2.5</sub> PSD implementation. The EPA is also approving a portion of the December 17, 2007, Arkansas SIP submittal for the PM<sub>2.5</sub> NAAQS

pertaining to interstate transport of air pollution and PSD. The EPA is finalizing these actions under section 110 and part C of the CAA.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2014-0700. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Adina Wiley, Air Permits Section (6PD-R), telephone (214) 665-2115, e-mail address [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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## **I. Background**

The background for today's action is discussed in detail in our November 10, 2014 proposal (79 FR 66633). In that notice, we proposed to approve portions of three SIP submittals for the State of Arkansas submitted on July 26, 2010; November 6, 2012; and September 10, 2014, that collectively update the Arkansas SIP to provide for regulation and permitting of PM<sub>2.5</sub> in the Arkansas PSD program consistent with federal PSD permit requirements.

The September 10, 2014, submittal was a request for parallel processing of revisions adopted by the ADEQ on August 22, 2014, as revisions to the state regulations. Under the EPA's "parallel processing" procedure, the EPA proposes a rulemaking action on a proposed SIP revision concurrently with the State's public review process. If the State's proposed SIP revision is not significantly or substantively changed, the EPA will finalize the rulemaking on the SIP revision as proposed after responding to any submitted comments. Final rulemaking action by the EPA will occur only after the final SIP revision has been fully adopted by the ADEQ and submitted formally to the EPA for approval as a revision to the Arkansas SIP. See 40 CFR part 51, Appendix V.

The ADEQ completed their state rulemaking process and submitted the final revisions to the Arkansas SIP on December 1, 2014. The EPA has evaluated the State's final SIP revision for any changes made from the time of proposal. See "Addendum to the TSD" for EPA-R06-OAR-2014-0700, available in the rulemaking docket. Our evaluation indicates that the ADEQ made no changes to the proposed SIP revision. As such, the EPA is proceeding with our final approval of

the revisions to the Arkansas SIP. This action is being taken under section 110 of the Act. We did not receive any comments regarding our proposal.

## **II. Final Action**

We are approving portions of three SIP submittals for the State of Arkansas submitted on July 26, 2010; November 6, 2012; and December 1, 2014, because we have determined that these SIP packages were adopted and submitted in accordance with the CAA and EPA regulations regarding implementation of the PM<sub>2.5</sub> NAAQS. The EPA finds that the Arkansas PSD SIP meets all the CAA PSD requirements for implementing the 1997 and 2006 PM<sub>2.5</sub> NAAQS, including the PM<sub>2.5</sub> PSD requirements contained in the federal regulations as of December 9, 2013, including regulation of NO<sub>x</sub> and SO<sub>2</sub> as PM<sub>2.5</sub> precursors, regulation of condensables, and PM<sub>2.5</sub> increments. As a result of today's final action, the EPA will stop the two FIP clocks that are currently running on the Arkansas PSD program pertaining to PM<sub>2.5</sub> PSD implementation. The EPA is approving the following revisions into the Arkansas SIP:

- Revisions to Regulation 19, Chapter 1 submitted on July 26, 2010, and November 6, 2012;
- Revisions to Regulation 19, Chapter 2 submitted on July 26, 2010, November 6, 2012, and December 1, 2014, with the exception of the GHG Biomass Deferral language submitted to the definition of CO<sub>2</sub>e on November 6, 2012;
- Revision to Regulation 19, Chapter 3 submitted on July 26, 2010, and December 1, 2014;
- Revisions to Regulation 19, Chapter 5 submitted on July 26, 2010, and December 1, 2014;
- Revisions to Regulation 19, Chapter 6 submitted on July 26, 2010;

- Revisions to Regulation 19, Chapter 7 submitted on July 26, 2010;
- Revisions to Regulation 19, Chapter 9 submitted on December 1, 2014;
- Revisions to Regulation 19, Chapter 10 submitted on July 26, 2010;
- Revisions to Regulation 19, Chapter 11 submitted on July 26, 2010;
- Revisions to Regulation 19, Chapter 13 submitted on July 26, 2010;
- New Regulation 19, Appendix B submitted on December 1, 2014; and
- A portion of the December 17, 2007, SIP submittal addressing interstate transport of air pollution and PSD for the 1997 PM<sub>2.5</sub> NAAQS (CAA 110(a)(2)(D)(i)(II)).

This action is being taken under section 110 of the Act.

### **III. Incorporation by Reference**

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, the EPA is finalizing the incorporation by reference of the revisions to the Arkansas Prevention of Significant Deterioration regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through [www.regulation.gov](http://www.regulation.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k);

40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial

review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

Dated: February 19, 2015.

**Ron Curry,**  
*Regional Administrator, Region 6.*



40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart E – Arkansas**

2. Amend § 52.170 as follows:
  - a. In paragraph (c) the table titled “EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP” is amended by revising the entries for:
    - i. Chapter 1, Regulation No. 19, Reg. 19.101, Reg. 19.103 and Reg. 19.104;
    - ii. Chapter 2;
    - iii. Chapter 3, Reg. 19.304;
    - iv. Chapter 5, Reg. 19.502, 19.503, 19.504, and 19.505;
    - v. Chapter 6, Reg. 19.601 and 19.602;
    - vi. Chapter 7, Reg. 19.702 and 19.703;
    - vii. Chapter 9, Reg. 19.903 and Reg. 19.904;
    - viii. Chapter 10, Reg. 19.1002, Reg. 19.1003, Reg. 19.1004 and Reg. 19.1005;
    - ix. Chapter 11;
    - x. Chapter 13, Reg. 19.1301 and 19.1303.
  - b. In paragraph (c) the table titled “EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP” is amended by adding a new entry in sequential order for Regulation No. 19, Appendix B.
  - c. In paragraph (e) the third table titled “EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE ARKANSAS SIP”

is amended by revising the entry for “Infrastructure for the 1997 and 2006 PM<sub>2.5</sub> NAAQS”.

The amendments read as follows:

### § 52.170 Identification of plan

\* \* \* \* \*

(c) \* \* \*

#### EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control				
Chapter 1: Title, Intent and Purpose				
Reg 19.101	Title	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
Reg 19.103	Intent and Construction	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.104	Severability	11/18/2012	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Chapter 2: Definitions				
Chapter 2	Definitions	9/13/2014	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	The SIP- approved definition of “CO <sub>2</sub> equivalent emissions” does not contain the GHG Biomass Deferral Provisions.

Chapter 3: Protection of the National Ambient Air Quality Standards				
* * * * *				
Reg 19.304	Delegated Federal Programs	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
Chapter 5: General Limitations Applicable to Equipment (Need to change title in CFR)				
* * * * *				
Reg 19.502	General Regulations	9/13/2014	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.503	Visible Emission Regulations	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.504	Stack Height/Dispersion Regulations	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.505	Revised Emissions Limitation	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Chapter 6: Upset and Emergency Conditions				
Reg 19.601	Upset Conditions	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.602	Emergency Conditions	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Chapter 7: Sampling, Monitoring, and Reporting Requirements				
* * * * *				
Reg 19.702	Air Emissions Sampling	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	

Reg 19.703	Continuous Emissions Monitoring	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
Chapter 9: Prevention of Significant Deterioration				
* * * * *				
Reg 19.903	Definitions	9/13/2014	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	

Reg 19.904	Adoption of Regulations	9/13/2014	<u><b>[Insert date of publication in the Federal Register]</b></u> <u><b>[Insert Federal Register citation]</b></u>	<p>The SIP-approved PSD program does not include the new provisions pertaining to GHG PSD PAL permitting at Regulation 19.904(A)(1), effective on July 27, 2013, and submitted to EPA on January 7, 2014.</p> <p>The SIP-approved PSD program does not include the revisions to Regulation 19.904(G)(1), effective on July 27, 2013, and submitted to EPA on January 7, 2014, pertaining to GHG PSD PAL permitting.</p> <p>The Arkansas SIP continues to include Regulation 19.904(G)(1) as approved by EPA on April 12, 2007, as submitted by the state on February 3, 2005.</p>
Chapter 10: Regulations for the Control of Volatile Organic Compounds in Pulaski County				
* * * * *				
Reg 19.1002	Purpose	1/25/2009	<u><b>[Insert date of publication in the Federal Register]</b></u> <u><b>[Insert Federal Register citation]</b></u>	

Reg 19.1003	Definitions	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.1004	General Provisions	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Reg 19.1005	Provisions for Specific Processes	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
Chapter 11: Major Source Permitting Procedures				
Chapter 11	Major Source Permitting Procedures	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Chapter 13: Stage I Vapor Recovery				
Reg 19.1301	Provisions for Specific Processes	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
Reg. 19.1303	Definitions	1/25/2009	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
Appendix B: National Ambient Air Quality Standards List				
Appendix B	National Ambient Air Quality Standards List	9/13/2014	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
* * * * *				

(e) \* \* \*

EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE  
ARKANSAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
Infrastructure for the 1997 and 2006 PM <sub>2.5</sub> NAAQS	Statewide	3/28/2008 9/16/2009 9/13/2014	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	Approval for CAA elements 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M) on 8/20/2012 (77 FR 50033). Approval for PSD elements (C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration of air quality) and (J) on <u>[Insert the date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>
* * * * *				
* * * * *				

3. Section 52.172 is amended by revising paragraphs (c) and (d) to read as follows:

**§ 52.172 Approval status.**

(b) \* \* \*

(c) 1997 PM<sub>2.5</sub> NAAQS: The SIP submitted March 28, 2008 is disapproved for CAA element 110(a)(2)(D)(ii).

(d) 2006 PM<sub>2.5</sub> NAAQS: The SIPs submitted March 28, 2008 and September 16, 2009 are disapproved for CAA element 110(a)(2)(D)(ii).

4. Section 52.181 is amended by adding paragraph (a)(5) to read as follows:

**§ 52.181 Significant deterioration of air quality.**

(a) \* \* \*

(5) December 1, 2014 – submittal of Regulation 19, Chapter 9, Prevention of Significant Deterioration which provided the authority to regulate and permit emissions of PM<sub>2.5</sub> and its precursors.

\* \* \* \* \*

[FR Doc. 2015-04270 Filed 03/03/2015 at 8:45 am; Publication Date: 03/04/2015]